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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	For Samuel Berger from Steven Andreasen. Subject: Memorandum to the President. Record ID: 9420708. (1 page)	06/07/1994	P1/b(1)
001b. memo	For the President from Samuel Berger. Subject: [Imminent Test] [with draft statement for the press secretary] Record ID: 9420708. (3 pages)	06/07/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
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FOLDER TITLE:

Chron File - June 1994 #1 [5]

2016-0152-F
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RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

June 6, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT G. BELL

FROM: STEVEN R. JONES

SUBJECT: Revised NASA Proposed Report RE: S. 1881, NASA Technology Investment Act (LRM #I-2876)

OMB has requested NSC views on the revised NASA proposed report regarding the NASA Technology Investment Act. The revised NASA report incorporates comments from various departments and agencies. I have reviewed the revised report and from the NSC perspective have no objections.

Concurrences by: Jeremy Rosner

RECOMMENDATION

That you sign the Memorandum at Tab I.

Attachments
Tab I Memorandum for Signature
Tab II Incoming Correspondence

4427

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR JAMES J. JUKES

FROM: WILLIAM H. ITOH

SUBJECT: Revised NASA Proposed Report RE: S. 1881, NASA Technology Investment Act (LRM #I-2876)

The NSC staff has no objections to the revised NASA report on S.1181, NASA Technology Investment Act.

30 pp
4427

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

June 3, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-2876

TO: Legislative Liaison Officer -

COMMERCE - Michael A. Levitt - (202)482-3151 - 324
DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
ENERGY - Bob Rabben - (202)586-6718 - 209
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
STATE - Julia C. Norton - (202)647-4463 - 225
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
TREASURY - Richard S. Carro - (202)622-1146 - 228
NEC - Sonyia Matthews - (202)456-6722 - 429
NSC - William H. Itoh - (202)395-3723 - 249
OPM - James N. Woodruff - (202)606-1424 - 331
OSTP - Roselis D'Allessandro - (202)456-6014 - 288
SBA - Kris Swedin - (202)205-6702 - 315
USTR - Fred Montgomery - (202)395-3475 - 223
GSA - William R. Ratchford - (202)501-0563 - 237
OGE - Jane Ley - (202)523-5377 - 261

FROM: JAMES J. JUKES (for) Jim
Assistant Director for Legislative Reference

OMB CONTACT: Jeffrey WEINBERG (395-3457)
Secretary's line (for simple responses): 395-3454

SUBJECT: REVISED NASA Proposed Report RE: S 1881, NASA Technology Investment Act

DEADLINE: NOON June 10, 1994

COMMENTS: NASA has provided its responses to agency comments on its original report that was circualted on March 31st with LRM #I-2831.

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

Kathy Peroff	Ray Kogut
Jack Fellows	Bob Damus/Mac Reed
Steve Isakowitz	Brad Kyser
Bruce Campbell	Louisa Koch
Memphis Norman	Greg Henry
Bill Coleman, OFPP	

LRM #I-2875

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: Jeffrey WEINBERG
Office of Management and Budget
Fax Number: (202) 395-3109
Analyst/Attorney's Direct Number: (202) 395-3457
Branch-Wide Line (to reach secretary): (202) 395-3454

FROM: ______________________ (Date)
______________________ (Name)
______________________ (Agency)
______________________ (Telephone)

SUBJECT: REVISED NASA Proposed Report RE:
S 1881, NASA Technology Investment Act

The following is the response of our agency to your request for views on the above-captioned subject:

______ Concur

______ No objection

______ No comment

______ See proposed edits on pages ______________

______ Other: ______________________

______ FAX RETURN of _____ pages, attached to this response sheet

National Aeronautics and
Space Administration
Headquarters
Washington, DC 20546-0001

Reply to Attn of: L

May 27, 1994

To: Jeffrey Weinberg
Legislative Reference Division
Office of Management and Budget

From: Karl Stehmer
Legislation Division
Office of Legislative Affairs
(202) 358-1925

Subject: NASA's Response to Agency Comments on Our Proposed Report on S. 1881, the NASA Technology Investment Act of 1994

We have reviewed the comments from various other departments and agencies on our proposed report on S. 1881, and provide the following responses to each, by department or agency. I am also attaching a "mark up" of our proposed report, including specific language we have inserted consistent with our comments below.

DEPARTMENT OF JUSTICE

1. **Section 108**
(Also in response to the Office of Government Ethics' comment)

Both the Justice Department and the Office of Government Ethics disagree with our request for statutory relief from criminal sanctions which could be implicated by personnel incentives required by this section. Both suggest that this section can be implemented without necessarily exposing employees to criminal sanctions, but provide no examples. They also oppose any amendments on a "piecemeal" basis.

NASA has proposed a limited, NASA-specific exemption for this legislation only. We are, of course, willing to work with the OGE and Justice to better understand incentive programs which will not put employees at such risk. It may be possible to devise carefully tailored and administered personnel incentives which are consistent with 18 U.S.C. 203, 205, and 208. However, such incentives programs are not apparent to us. Indeed, this type of incentive program for employees who work with the private sector seems inherently in conflict with the statutory restrictions noted above. We have revised our letter somewhat, but continue to express our concern and desire for legislative relief. (See page 10 of our letter).

2. Section 103

   a. Agrees with NASA.

   b. We agree with Justice. See change on page 4, last paragraph.

   c. We agree with Justice. See change on page 6.

3. Proposed Section 312

   We agree with Justice. See revisions to proposed language on page 14.

<u>OSTP</u>

Specific comments.

1. Deleted and made changes, see pages 1 and 2.

2. Agree with OSTP. See changes on pages 4 and 5.

3. Deleted per their comment. See page 1.

4. We have made the changes. See pages 1 and 2.

Section 3. Agrees with NASA.

Section 101.

1. We agree, and have deleted the comment concerning use of the word "materially", on page 3.

2. OSTP agrees with our comment on "planned". Note the additional explanation concerning usage of "funded" on page 3.

Section 103.

1. OSTP agrees with our comment. We have added language concerning lack of competition if only one proposal meeting qualifications is received. See page 4.

2. OSTP agrees with our comment. We do not agree with their conclusion that "appropriations for this line should be in 'no year dollars'". The fact that appropriated funds for a program have not been used in a particular year does not mean that they become "no year" funds. If funds are properly obligated on a program, they may be used until expended. One-year fund that are not oblig ted at the close of the

fiscal year are not available for obligation in future years.

3. We agree, and have deleted the comment, as noted on page 5.

4. OSTP agrees with our comment.

5. OSTP agrees with our comment.

6. We disagree. NASA's comment is necessary to clarify the authority provided by section 203(c)(5) of the Space Act. There has been a long-standing misunderstanding of NASA's authority under this provision.

Sections 104, 105, 106, 107

We have included specific recommendations for each comment, see pages 7 and 8.

Sections 106, 111, 201

OSTP agrees with our comments. We have also included additional explanation for section 111. See page 11.

Section 202

1. We have clarified our comment so that issues raised by cost-sharing would be investigated. See page 12.

2. Agreed with our comment.

Section 203

While we would prefer the term "capabilities", we defer to OSTP and will use the terms "strengths and weaknesses". WE do not, however, understand what is meant by the suggestion that we make "more routine use of proprietary and classified information for purposes such as this". There are limitations on the uses for which this information may be used that are not within our discretion. We have also deleted "extremely" before "proprietary" as superfluous.

Space Act Amendment, New Section 312

OSTP agrees subject to Commerce's comments. No comments received from Commerce. (See response above to Department of Justice comments).

DEPARTMENT OF STATE

Section 103(a)(2)

We agree. See proposed deletion of language and explanation on page 5.

Section 111

We disagree. Absent specific instances in which the proposed definition of "eligible firm" violates international agreements, NASA cannot respond further. We have provided additional language to respond to this comment. See page 11.

We also note that the definition of "eligible firm" in this bill is similar to the definition of that term contained in the statute for the Technology Reinvestment Project (10 U.S.C. 2491), copy attached.

Interagency Working Group on Aeronautics

We have included a reference to this working group on page 2 of the cover letter.

DEPARTMENT OF ENERGY

Page 1

Already addressed by previous changes.

Section 102

We have added language to explain the objection to the use of the word "funded". See page 3.

Section 103

DOE agrees with our comment.

Section 105

We disagree with Energy's comment. Subsection 105(a) adds nothing, and should be deleted.

Section 106

DOE agrees with our comment.

DEPARTMENT OF THE TREASURY

Section 103(a)

We disagree with their comment. The proposed alternative language does not resolve the issue, but only delays the determination of the criteria for being considered an eligible firm. We believe the current section 103(a) is preferable, with our proposed changes. See page 5.

OFFICE OF GOVERNMENT ETHICS

Our response to the comment on section 108 is provided above, re Department of Justice.

U.S. TRADE REPRESENTATIVE

Section 103(a)(2)

(We assume that the USTR is objecting to section 103(a)(2), rather than section 101(a)(2).)

See proposed changes on page 4.

Section 111(a)

We disagree. See our response to the State Department's comment on section 111.

NASA DRAFT REPORT TO OMB
103rd Congress, 2nd Session

L:KHS

The Honorable Ernest F. Hollings
Chairman
Committee on Commerce, Science,
and Transportation
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

On March 1, Senator Rockefeller, on behalf of himself and Senator Burns, introduced S. 1881, the "National Aeronautics and Space Administration Technology Investment Act of 1994," intended to help strengthen the link between NASA programs and economic growth. In his appearance March 2, before the Subcommittee on Science, Technology, and Space, chaired by Senator Rockefeller, NASA Administrator Goldin expressed his general support of the bill's objectives and told the Subcommittee that after a more complete review NASA would provide the Committee with our recommendations for changes in some of its provisions. We have since had an opportunity to thoroughly review S. 1881 and would like to share our views and comments with your Committee.

The relevance of government and its programs to the economic challenges facing America is a recurrent concern of this Administration, the Congress and the public. The Administration is committed to a government that is relevant to

America. NASA is committed to a balanced space and aeronautics program that supports meaningful science and technology and will contribute to the U.S. economy. We believe that the budget which we have requested for fiscal year 1995 accomplishes these goals. S. 1881 is consistent with the direction NASA has taken in all of its programs.

The Administration has formed an Interagency Working Group on Aeronautics, chaired by OSTP, of which NASA is a member. This Working Group is directly tackling most of the issues addressed in this bill. NASA's aeronautics programs in particular have always been planned and conducted in support of the global competitiveness of United States industry. In addition, we have increased our emphasis on technology transfer beyond the primary mission of our programs, and are utilizing multiple mechanisms--including industry-led consortia--to facilitate such transfer. We are very supportive of the philosophy and concept behind S. 1881 and its application to all aerospace programs.

In fiscal year 1994 NASA was appropriated $20 million for a technology program with industry, which has been titled the Aerospace Industry Technology Program (AITP). The AITP is being planned to include strong and active involvement of industry, with a major focus on creation of industry-led consortia. The projects supported by the AITP will be designed by industry, competitively selected by NASA, managed through cooperative agreements and focus on development of technology which will have high commercial benefit and applicability. The fiscal year 1995 budget request includes $18.9 million for this effort.

The program proposed by S. 1881 would generally provide legislative support for continuation and expansion of this effort. There are, however, difficulties with several of the bill's provisions which should be addressed before this legislation is enacted. We have attached hereto our specific comments on the bill's provisions, and will be happy to work with the Committee to craft a bill that will achieve our common goals and objectives.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this report to the Congress.

Sincerely,

SPECIFIC COMMENTS ON

S. 1881, THE "NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TECHNOLOGY INVESTMENT ACT OF 1994"

As a general matter, several provisions of the proposed bill require NASA to make assessments which, in our view, are not within NASA's expertise.

~~Section 102 requires the Administrator "ensure" that aeronautical and space projects "promote commercial technology applications," without reference to applications of interest to NASA.~~

~~The section also requires NASA to "measure and evaluate technology development and the potential for commercialization."~~

- ~~Similarly,~~ Section 103 requires the Administrator invest in projects if the project will "advance the competitiveness of United States industry," and that the Administrator consider "each project's potential to advance technologies that enhance the competitiveness of United States industry in global markets." At minimum, the section should recognize that the Administrator will have the discretion to consult with, or defer to, the U.S. Trade Representative or Secretary of Commerce, as appropriate.

- Finally, in defining "eligible firms" for Title I, Section 111 requires NASA to make assessments of a foreign country's funding of consortia and protection of U.S. intellectual property rights, assessments which would seem to be more properly the responsibility of the United States Trade Representative, State Department, or the Department of Commerce. Not only does NASA lack expertise to make such judgments, but technologies that may meet these provisions may not be technology of interest or relevance to NASA programs, technology, or expertise. At a minimum, this provision should recognize that NASA will consult with these other agencies, and will only make judgments on technologie within NASA's expertise.

Section 3: Technology Investment Policy

This section sets out a Technology Investment Policy. Paragraphs 4 and 5 establish significant direct roles for U.S. industry in this policy, but there is no direction here or elsewhere as to how this is to happen. In addition, paragraph 5 refers to "industry-led" consortia, while all other paragraphs refer only to U.S. industry.

With respect to paragraph (5), we recommend adding "alliances, or other entities" after the word "consortia" in order to avoid any unnecessary constraints that might derive from a narrow definition of a consortium.

TITLE I: ROLE OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

IN TECHNOLOGY INVESTMENT

Section 101: Amendments to National Aeronautics and Space Act

Removing the specific references to ground propulsion systems and advanced automobile propulsion in sections 102(e) and (f) and replacing them with alternative language that addresses the overall goals of economic growth, competitiveness and productivity is a good improvement. NASA, of course, already conducts its activities in such a manner. ~~We are concerned about the requirement that the aeronautical and space activities of the United States contribute "materially" to these objectives. The word "materially" is an unquantifiable, subjective term and should be deleted.~~

Section 102: Technology Development and Commercialization Goals

This section would require that NASA measure and evaluate potential commercialization of technology for funded and "planned" projects. It is not clear how or whether NASA could make such measurements for "planned" projects, or when a project is sufficiently "planned" to be subject to these measures. We suggest deletion of "funded and planned". It is also not clear what would be considered "funded," as opposed to "unfunded," proposals. Projects may be privately or publicly funded, selected for funding, or under consideration for funding. Therefore, The scope and content of the technology plan that would be required by paragraph (1) should be described. Some suggested contents of such a technology plan might include deliverables such as a proof of concept design; a market research and or analysis of probability of commercialization. Finally, the word "ensure" should be replaced with the word "require."

Section 103: Technology Investment Program With Industry

It should be noted that the criteria included in this section are similar to those provided for by statute for the Advanced Technology Program (15 U.S.C. 278n) and the Technology Reinvestment Project (10 U.S.C. 2491). Subsection (a) requires the Administrator to establish a "competitive" program, but does not define "competitive." There is the possibility that only one proposal meeting all criteria will be received, in which case, selection should not be subject to a "competitive" requirement. In addition, the competition requirements of the Competition in Contracting Act would apply if contracts are to be awarded under this program, unless there is a statutory exception for the awards pursuant to this program. Finally, this competitive program is not clearly linked to "eligible firms" as defined in Section 111.

As currently worded, subsections 103(a) and (b) are confusing. Subsection (a) requires the Administrator to invest in "<u>any</u> project proposed by an eligible firm" (emphasis added) if that project meets the listed criteria. This could be read as what amounts to an entitlement to an investment, rather than permitting the Administrator to select the best proposals from among those that meet the criteria in subsection 103(a), or permitting the Administrator to impose additional criteria. However, subsection (b) includes additional criteria which the Administrator is to "weigh and consider." In order to clarify this section and to avoid what appears to be three sets of criteria a proposal must meet, we would recommend that the criteria in Section 103(a) be deleted altogether and proposals from eligible firms be selected based on the criteria in section 103(b). In any event, these subsections must be clarified.

With respect to paragraph 103(a)(2), we would recommend that the words following "the United States" be deleted. The words which follow only provide an example of one type of evidence relevant to this determination, and may lead readers to conclude that this is the only evidence relevant to this determination.

~~Subsection 103(a)(2) lists as evidence that a firm's participation would be in the economic interest of the United States "the conduct of a significant level" of research, etc., in the United States. There is no indication of what would constitute such a "significant level" and the measurement or standards by which such a determination will be reached.~~

We recommend replacing the word "funding" in subsection 103(b)(1) with the word "resources." Industry contributions can take many forms in addition to new money, including people, hardware, and facility time.

Subsection (c), Cost Sharing, is confusing. As an initial matter, the word "ensure" should be replaced with the word "require." The Federal Government's share seems to be limited to 50%; of the amount provided by "non-Federal participants", no less than 25% must be provided by "industry". Where does the other 25% come from? We suggest that a simple 50-50 cost sharing would be more clearly understood. Perhaps it would help if "participants" is defined in Section 111. In addition, there is no discussion as

Based on this concern, we recommend that this subsection require only a review or in[illegible]tigation of this possibility, to allow NASA and other interested agenci[illegible] departments to resolve how to best meet the intent of this legislation without violating other applicable laws, including the GATT.

to whether "in-kind" contributions may be considered in determining the funding provided by a participant. The relation between this subsection and the GATT is unclear.

Subsection (d) encourages "the use of the authority" of "section 203(c)(5)" of the Space Act. Section 203(c)(5) is NASA's authority for entering into agreements other than procurement contracts. While we have no objection to such a provision, it serves no purpose. However, it may be the case that this subsection was intended to encourage NASA to use the authority in section 203(c)(5) of the Space Act to enter into "other transactions", or agreements commonly referred to as "Space Act Agreements." If this is the case, it is not apparent why a Space Act Agreement is preferable to other types of agreements, or why it is desirable to award such agreements to "non-aerospace firms" as required by this subsection.

Subsection (e) requires NASA to issue regulations. NASA strongly objects to a requirement for regulations. Regulations limit the flexibility available under the Space Act. Any necessary implementing procedures can be explained in a brochure. In addition, the Administration has directed agencies to reduce by 50 percent the number of internal regulations, and such a provision would be inconsistent with the intent if not the letter of the Executive Order.

Section 104: Role of Procurement in Technology Investment

As a general matter, NASA already considers the items listed as a part of the procurement process, and this section is not necessary, and should be deleted

Furthermore, the proposed role of procurement seems to cover all procurement activities undertaken by NASA in furtherance of its mission, including even all small purchases. Such broad application may cause conflicts with other acquisition statutes, regulations, OMB Circulars, OFPP Policy Letters, etc. The proposed language does not limit the contemplated role of procurement to those procurement acquisitions in furtherance of the technology investment objectives of the bill. A bill focusing on a small part of the agency's overall mission should not be used as the vehicle to seek significant agency-wide procurement reform that may subject NASA procurement to procedures not applicable to other agencies.

Section 105 Coordination with Other Federal Programs

Subsection (a) is not necessary, in that NASA already coordinates its technology programs with other programs. Therefore, we recommend that this subsection be deleted.

Subsection (b) requires the Administrator to identify funding received from other Federal agencies "to manage and carry out technology investment and development." This requirement is too vague and ambiguous, making it impossible for NASA to know what funding we are required to identify. More specific language is necessary.

Section 106: Interagency Technology Initiatives

This section requires NASA to submit as part of its annual budget request to Congress a report on the details of each interagency technology project. Many of our programs are conducted in close cooperation with other government agencies, most notably the Department of Defense and the Federal Aviation Administration. Details of these cooperative efforts are already available in other forms. This additional reporting requirement is not necessary nor particularly helpful. We would prefer to draw upon existing reports, and perhaps modify them to achieve the purposes of this section. This section should simply require that NASA meet this reporting requirement through already existing reporting requirements.

Section 107: Coordination With Other NASA Programs

Subsection 107(a) requires coordination with NASA's Small Business Innovation Research program "to increase the effectiveness of funding to small businesses...". This may appear to suggest some form of set-aside for small businesses, contrary to the full and open competition suggested elsewhere. The subsection should be clarified to indicate that no such set-aside is intended.

Subsection 107(b) requires the Administrator to "identify all funds reimbursed to contractors of [NASA] for activities commonly referred to as "Independent Research and Development...". The language seems to misapprehend the nature of "Independent Research and Development" (IR&D). Those amounts are sums invested in R&D by a company and allocated by the company as an indirect General and Anministrative (G&A) cost to its entire business base. Therefore, NASA would not be in a position to "reimburse" funds expended for IR&D. The company, once it expended funds from its IR&D account, could receive some of it back via G&A costs allocated to Government contracts, but the amount would be dependent upon the total IR&D expended, the work, and the percentage of NASA work within the contrator's government business base.

Section 108: Personnel Incentives

Paragraph 3 authorizes the Administrator to provide NASA personnel paid leave, sabbaticals, or intergovernmental personnel transfers to other Federal agencies or the private sector to pursue technology innovation and development. X insert Additional language is necessary to address potential allegations of violations of ethics requirements which apply to Federal employees. Language is necessary because it is quite possible that personnel on such technology and innovation and development assignments will have a need to represent an outside entity (such as a university or research institute) before an agency of the U.S. Government. Therefore, we would recommend that the current Section 108 be made subsection (a), with the following language or similar inserted as subsection (b):

"(b) Activities conducted in furtherance of such technology innovation and development assignments shall not be subject to the provisions of sections 203 and 205 of Title 18."

In addition, depending on the nature of financial interests that may be spawned by the cash incentives included in the redesignated subsection (a), it may be ~~desirable~~ necessary to grant some relief to federal employees from 18 U.S.C. § 208 concerning financial interests.

This section is also unclear as to how and from what source the proposed personnel incentives would be funded. Language should be added that specifies that the proposed personnel actions be in accordance with existing agency law and personnel regulations and (Still)

~~The Office of Government Ethics and Department of Justice have indicated that they believe it is p[illegible]ble to devise personnel incenti[illegible] anticipated by thi[illegible] section which are not necessarily inconsistent with the ethics prohibitions which are applicable to Federal government employees at Title 18 of the United States Code, Sections 203, 205, and 208. They have not provided specific examples of incentive programs that would not violate these statutory prohibitions. NASA has serious concerns with this section, and the possibility that incentive programs it may devise may put its employees at risk of criminal sanctions. We are, of course, willing to work with the Office of Government Ethics and Department of Justice in devising acceptable programs. However, absent more specific guidance, we must strongly object to [illegible] section.~~

procedures.

Section 111: Definitions

The definition of "eligible firm," which uses the terms "business entity" and "company" would appear to exclude non-profit organizations which should be eligible.

We take no objection to this definition, other than that noted above, based on the fact that this definition is virtually identical to that for the Advanced Technology Program (15 U.S.C. 278n) and the Technology Reinvestment Project (10 U.S.C. 2491).

TITLE II: NATIONAL AERONAUTICS FACILITIES

Section 201: Findings

We recommend that paragraph (4) be amended as follows, to more accurately reflect the current facilities situation:

"(4) the national civil and military aeronautics facilities of the United States are aging and, with few exceptions, cannot be modified to[~~test new technologies in aircraft and engine design~~] *adequately simulate the flight conditions that will be required for highly productive aircraft design and development*; and"

Section 202: Policy

Paragraph (4) directs that industry and government cost-sharing for facilities construction and use be investigated. ~~Such~~ Issues to be investigated should include ~~joint cost-sharing for facilities construction could create~~ title and property rights issues with regard to the constructed or rehabilitated facilities. It is not clear who would own such facilities. Further, would NASA be authorized to utilize any funds other than the extremely limited Construction of Facilities funds for this purpose? New facilities would require significant investment in fiscal year 1996 and beyond.

We also note that in both section 202 and section 203 the words "aerospace" and "aeronautics" are used. These terms must be clearly understood. "Aerospace" includes both aeronautics and space facilities and is a more inclusive term. This is important because in section 202 the language shifts from "aerospace" to "aeronautics" between paragraphs (1) and (2), and also because paragraph (3) of section 203 asks for a determination of cost savings for closing of aeronautical facilities only. The recent National Facilities Study includes savings achievable by closing of both aeronautics and space facilities.

Section 203: Worldwide Facilities Assessment

This section requires the President to conduct a "Worldwide Facilities Assessment" of aeronautics facilities. As mentioned above, the National Facilities Study, led by NASA and coordinated with other Federal agencies, should be very useful to such a worldwide study.

~~We recommend one amendment to paragraph (2), which requires an analysis of the strengths and weaknesses of each aeronautics facility that impacts aeronautical research and technology objectives of the U.S. government and domestic industry. We recommend that the words "strengths and weaknesses" be replaced with "capabilities".~~ In gathering information to determine "strengths and weaknesses," as contemplated by paragraph (2), it should be recognized that Detailed data on foreign facilities is often ~~extremely~~ proprietary, and it may not be possible to compile an extensive inventory of specific foreign facility strengths and weaknesses. Developing general descriptions of capabilities should not, however, present such problems.

ADDITIONAL AMENDMENTS TO THE SPACE ACT

To increase access to computer programs developed by Federal employees under Space Act agreements, we recommend inclusion of the following amendment to the Space Act by designating the current provisions in section 101 as subsection (a) and adding the following new subsection:

"(b) The National Aeronautics and Space Act of 1958 (42 U.S.C. 2451) is amended by adding a new section 312, as follows:

(a) The Administration is authorized to secure copyright on behalf of the United States as author or proprietor in any computer software prepared in whole or in part by employees of the United States Government in the course of work under an agreement entered into under the authority of Sections 203(c)5) and (c)(6) notwithstanding the limitations contained in section 105 of title 17, United States Code; and may grant or agree to grant in advance to a collaborating party, licenses or assignments for such copyrights, or options thereto, and shall ~~may~~ retain a nonexclusive, nontransferable, irrevocable, paid-up license to reproduce, prepare derivative works ~~adapt~~, translate, distribute, and publicly perform or display the computer software throughout the world by or on behalf of the Government and such other rights as NASA deems appropriate.

(b) 'Computer program ~~software~~' means a computer program, as defined in section 101 of title 17, United State Code. ~~and any associated documentation, supporting materials, or user instructions.~~

(c) Any royalties or other income received from the licensing or assignment of copyright under agreements shall be retained by NASA and shall be disposed of by the Administration in a like manner to royalties received from the licensing of patents.

ARPA

Program Information Package for Technology Reinvestment Project Focused Competition

April 1994

FOR INFORMATION AND PLANNING PURPOSES ONLY: NOT A SOLICITATION

Appendix A: Defense Technology Conversion Council Policies

A.1. What is an "Eligible Firm?"

The TRP term, "eligible firm," is defined by statute (10 U.S.C. § 2491(9)). The following working definition paraphrases the statutory language:

> An "eligible firm" is a company or other business entity (or a consortium of such companies) owned or controlled by U.S. citizens that conducts a significant level of its research, development, engineering, and manufacturing activities in the United States. However, a company not owned or controlled by U.S. citizens can be eligible if it is a subsidiary of a parent company that is incorporated in a country whose government funds research and development consortia in which foreign owned subsidiaries can participate. That country must also afford adequate and effective protection for the intellectual property rights of companies incorporated in the United States. A foreign-owned company must still conduct a significant level of its research, development, engineering, and manufacturing activities in the United States in order to be eligible.

A.2. Intellectual Property

(1) Intellectual Property in General

Intellectual property consists chiefly of inventions (whether or not patented), copyrights (in technical data or other matter), trade secrets, and trademarks. TRP treatment of intellectual property rights shall be flexible, with due consideration given to the underlying purposes of the programs, particularly the national security objectives of Section 2501 of Title 10, United States Code. However, the starting point will generally be a regime that allows participants to retain ownership of intellectual property, with rights granted to the Government for Government purposes and with "march-in" rights given to the Government in the event productization goals (in Technology Development) are not advanced in a reasonable time.

(2) Rights in Inventions

(a) The disposition of rights in inventions under contracts, grants, and cooperative agreements[1] (including subcontracts) for the performance of experimental, developmental, or research work funded under the programs shall be governed by Chapter 18 of Title 35, United States Code.[2]

(b) In general, inventions must be disclosed to the Government. Inventors then may elect either to retain ownership of each invention or to relinquish ownership to the Government. The Government retains a royalty-free license to practice retained inventions (or have them practiced by others) on its behalf throughout the world. The Government may also exercise "march-in" rights, taking control of the invention if productization is not achieved in a reasonable period of time. Standard clauses mandated by 37 C.F.R. Part 401 shall generally apply to all TRP grants and cooperative agreements unless either: (1) the party to the agreement is not located in the United States or does not have a place of business in the United States or is subject to the control of a foreign government; or (2) the party to the agreement is not a nonprofit organization or an alternate provision is to be used in accordance with 37 C.F.R. 401.3.

[1]See the discussion below about the various types of funding instruments.

[2]This chapter, by its terms, applies only to small business firms and education and other nonprofit organizations. However, it is applicable by executive order to other kinds of entities as well.

ARPA

Program Information Package for Defense Technology Conversion, Reinvestment, and Transition Assistance

TECHNOLOGY REINVESTMENT PROJECT

Dual Use Technologies • Economic Growth • National Security

March 10, 1993

FOR INFORMATION AND PLANNING PURPOSES ONLY: NOT A SOLICITATION

APPENDIX F
STATUTES RELATING TO DEFENSE CONVERSION

F.1. STATUTORY DEFINITIONS OF TERMS (10 U.S.C. § 2491)

"In this chapter:

"(1) The term 'national technology and industrial base' means the persons and organizations that are engaged in research, development, reduction, or maintenance activities conducted within the United States and Canada.

"(2) The term 'dual-use' with respect to products, services, standards, processes, or acquisition practices, means products, services, standards, processes, or acquisition practices, respectively, that are capable of meeting requirements for military and nonmilitary application.

"(3) The term 'dual-use critical technology' means a critical technology that has military applications and nonmilitary applications.

"(4) The term 'technology and industrial base sector' means a group of public or private persons and organizations that engage in, or are capable of engaging in, similar research, development, or production activities.

"(5) The terms 'Federal laboratory' and 'laboratory' have the meaning given the term 'laboratory' in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. § 3710a(d)(2)).

"(6) The term 'critical technology" means a technology that is-

"(A) a national critical technology; or

"(B) a defense critical technology.

"(7) The term 'national critical technology' means a technology that appears on the list of national critical technologies contained in the most recent biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. § 6683(d)).

"(8) The term 'defense critical technology' means a technology that appears on the list of critical technologies contained, pursuant to [10 U.S.C. § 2505(f)] of this title, in the most recent national technology and industrial base assessment submitted to Congress by the Secretary of Defense pursuant to [10 U.S.C. § 2506(e)] of this title.

"(9) The term 'eligible firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

"(B) is a company or other business entity the majority ownership or control of which is by United States citizens or is a company or other business of a parent company that is incorporated in a country the government of which—

"(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations or agreements; and

"(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

Such term includes a consortium of such companies or other business entities, as determined by the Secretary of Commerce.

"(10) The term 'manufacturing technology' means techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor management, inventory management, and worker training, as well as manufacturing equipment and software.

"(11) The term 'manufacturing extension program' means a public or private, nonprofit program for the improvement of the quality, productivity, and performance of United States-based small manufacturing firms in the United States.

"(12) The term 'United States-based small manufacturing firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) engages in manufacturing;

"(B) has less than 500 employees; and

"(C) is an eligible firm."

"(b) Transition Provision.—Until the first national technology and industrial base assessment is submitted to Congress by the Secretary of Defense pursuant to section 2506(e) of title 10, United States Code, as added by section 4216, the term "defense critical technology" for the purposes of chapter 148 of such title, as added by section 4202, shall have the meaning given such term in section 2521 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act."

F.2. Congressional Defense Policy Concerning National Technology and Industrial Base, Reinvestment, and Conversion (10 U.S.C. § 2501)

"2501. Congressional defense policy concerning national technology and industrial base, reinvestment, and conversion

"(a) Defense Policy Objectives for National Technology and Industrial Base.—It is the policy of Congress that the national technology and industrial base be capable of meeting the following national security objectives:

"(1) Supplying and equipping the force structure of the armed forces that is necessary to achieve—

"(A) the objectives set forth in the national security strategy report submitted to Congress by the President pursuant to section 104 of the National Security Act of 1947 (50 U.S.C. 404a);

"(B) the policy guidance of the Secretary of Defense provided pursuant to [10 U.S.C. § 113(g)]; and

"(C) the future-years defense program submitted to Congress by the Secretary of Defense pursuant to [10 U.S.C. § 221].

"(2) Sustaining production, maintenance, repair, and logistics for military operations of various durations and intensity.

"(3) Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries

"(4) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a war, national emergency or mobilization of the armed forces before the commencement of that war, national emergency, or mobilization.

"(b) Policy Objectives Relating to Defense Reinvestment, Diversification, and Conversion.—It is the policy of Congress that, during a period of reduction in defense

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

June 6, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: STEVEN JONES

FROM: PETER FEAVER PDF

SUBJECT: VA Proposed Report Re. HR-3731 Authority for Concurrent Receipt of Special Separation Benefit and Disability Compensation

Tab I is a proposed report giving the Department of Veterans Affairs views on HR-3731, a bill "to repeal the requirement that amounts paid to a member of the Armed Forces under the Special Separation Benefits program of the Department of Defense be offset from amounts subsequently paid to that member by [VA] as disability compensation."

The Department of Veterans Affairs is opposed to this bill. The government has a longstanding policy of not allowing veterans to receive concurrent compensation from DoD and VA based on the same periods of service. The report further notes that HR-3731 would cost $220 million over the FYDP.

Concurrence by: Jeremy Rosner

RECOMMENDATION

That you sign and forward the memorandum at Tab I concurring in the proposed report.

Attachments
Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR JANET R. FORSGREN

FROM: WILLIAM H. ITOH

SUBJECT: VA Proposed Report Re. HR-3731 Authority for Concurrent Receipt of Special Separation Benefit and Disability Compensation

The National Security Council staff concurs in the proposed report.

4322

SPECIAL

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

May 31, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-2846

TO: Legislative Liaison Officer -

COMMERCE - Michael A. Levitt - (202)482-3151 - 324
DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
HHS - Frances White - (202)690-7760 - 328
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
NSC - William H. Itoh - (202)395-3723 - 249

FROM: JANET R. FORSGREN (for) Janet Rice Forsgren
Assistant Director for Legislative Reference

OMB CONTACT: Melissa COOK (395-3924)
Secretary's line (for simple responses): 395-7362

SUBJECT: VA Proposed Report RE: HR 3731, Authority for Concurrent Receipt of Special Separation Benefit and Disability Compensation.

DEADLINE: C.O.B. June 7, 1994

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC: Mary Jo Sicleri
Phebe Vickers
Wendell Waites
Todd Grams
Justin Kopca
Jeff Payne
Barry Clendenin
Art Stigile
Beverly Thierwechter
Jennifer Palmieri
Jim Murr
Janet Forsgren

LRM #I-2846

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: Melissa COOK
Office of Management and Budget
Fax Number: (202) 395-6148
Analyst/Attorney's Direct Number: (202) 395-3924
Branch-Wide Line (to reach secretary): (202) 395-7362

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

SUBJECT: VA Proposed Report RE: HR 3731, Authority for Concurrent Receipt of Special Separation Benefit and Disability Compensation.

The following is the response of our agency to your request for views on the above-captioned subject:

_______ Concur

_______ No objection

_______ No comment

_______ See proposed edits on pages ______________

_______ Other: ______________________

_______ FAX RETURN of _____ pages, attached to this response sheet

The Honorable Corrine Brown
House of Representatives
Washington, D.C. 20515-0903

Dear Congresswoman Brown:

I am pleased to furnish the views of the Department of Veterans Affairs (VA) on H.R. 3731, 103d Congress, the bill you introduced "to repeal the requirement that amounts paid to a member of the Armed Forces under the Special Separation Benefits program of the Department of Defense be offset from amounts subsequently paid to that member by [VA] as disability compensation." I am also pleased to respond to your questions on this issue. We oppose enactment of H.R. 3731 for the reasons explained below.

As indicated, H.R. 3731 would repeal the requirement that amounts paid by the Department of Defense (DoD) to a member of the Armed Forces as a special separation benefit authorized under 10 U.S.C. § 1174a be offset from any VA disability compensation later paid to that member. The special separation benefit is not unique in being subject to recoupment from later-paid VA disability compensation. DoD non-disability separation pay authorized under 10 U.S.C. § 1174 also must be set off from VA disability compensation. Moreover, sometimes a DoD benefit must be reduced if VA disability compensation is being received. For example, any DoD voluntary separation incentive authorized under 10 U.S.C. § 1175 must be reduced by the amount of any VA compensation concurrently received. Likewise, VA disability compensation is payable only to the extent that any DoD retired or retirement pay is waived in lieu of disability compensation.

The purpose of such offset requirements is to prevent the duplication of benefits based on the same period of service, even though one benefit (VA disability compensation) is paid because of disability and the other (the various DoD benefits) because of separation from service, whether the separation be early (as in the cases of special separation benefits and voluntary separation incentives) or not (as in the case of retired pay). H.R. 3731 should be viewed in this context and with that purpose in mind.

H.R. 3731 would exempt those veterans who receive the special separation benefit from this overall scheme of preventing duplication of benefits. You are concerned that veterans who receive the special separation benefit and who have compensable service-connected disabilities are not deriving the intended benefit from their VA disability compensation to the extent the amount of their special separation benefit is recouped from their compensation. We believe, however, that it would be unfair to allow these veterans to receive both federal benefits when veterans who accept the voluntary separation incentive, non-disability separation pay, or retired pay and also have service-connected disabilities may receive, in effect, only one federal benefit for the particular disability or period of service. In our view, H.R. 3731 inequitably singles out one class of veterans, those who receive the special separation benefit, for favorable treatment over other, similarly situated veterans. Accordingly, we oppose its enactment.

We estimate that enactment of H.R. 3731 would result in the following costs:

Fiscal Year	Cost
1995	$87,600,000
1996	$31,300,000
1997	$32,500,000
1998	$33,700,000
1999	$34,900,000
TOTAL for FY 95-99	$220,000,000

I understand that your questions 1 through 4 were also referred to DoD. Since those questions request information related solely to the military, our responses are limited to questions 5, 6, and 7.

5. How many special separation benefit veterans have applied for veterans disability compensation?

We have no statistics of our own on the number of veterans who received the special separation benefit who have also applied for VA disability compensation. A computer match, however, between the 1992-93 special separation benefit separation file and the December 1993 VA compensation submission file, run by DoD's Defense Manpower Data Center, indicated that approximately 12 percent of the special separation benefit veterans also receive disability compensation.

6. How many special separation benefit veterans have applied for health benefits?

We have no statistics on the number of veterans who received the special separation benefit who have also applied for VA health benefits.

7. Would VA support a legislative solution to this problem?

For the reasons stated above, we do not support legislation to repeal the offset requirement.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

June 6, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: STEVEN JONES

FROM: PETER FEAVER PDF

SUBJECT: Defense Draft Bill on Historical Item Disposal Authority (DOD 103-054)

Tab I is a draft bill, proposed by the Department of Defense, to authorize the military departments to sell excess historical items. Current law allows the military to exchange certain historical items for similar items or for search, salvage and restoration services. The proposed legislation would authorize the sales of historical items, thus expanding the ability of the military departments to dispose of unneeded items in those cases when no exchange opportunity is available.

Concurrence by: Jeremy Rosner

RECOMMENDATION

That you sign and forward the memorandum at Tab I concurring in the proposed bill.

Attachments
Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR RONALD K. PETERSON

FROM: WILLIAM H. ITOH

SUBJECT: Defense Draft Bill on Historical Item Disposal Authority (DOD 103-054)

The National Security Council staff concurs in the proposed bill.

EXECUTIVE OFFICE OF THE PR IDENT
OFFIC OF MANAGEMENT AND UDGET
Washington, D.C. 050

SPECIAL

4381

June 2, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #D-802
DRAFT #630

TO: Legislative Liaison Officer -

GSA - William R. Ratchford - (202)501-0563 - 237
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
NSC - William H. Itoh - (202)395-3723 - 249
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
TREASURY - Richard S. Carro - (202)622-1146 - 228
Interior - D Consenstein

FROM: RONALD K. PETERSON (for) Ronald K Peterson
Assistant Director for Legislative Reference

OMB CONTACT: MIKE GOAD (395-7301)
Secretary's line (for simple responses): 395-6194

SUBJECT: DEFENSE Draft Bill Historical Item Disposal Authority (DOD 103-054)

DEADLINE: 4:00 P.M., TUESDAY, June 7, 1994

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
P. Vickers
J. Schuhart
E. Rea

6 pg

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is simple (e.g., concur/no comment) we prefer that you respond by faxing us this response sheet. If the response is simple and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a secretary.

You may also respond by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please include the LRM number shown above, and the subject shown below.

TO: MIKE GOAD
Office of Management and Budget
Fax Number: (202) 395-5691
Analyst/Attorney's Direct Number: (202) 395-7301
Branch-Wide Line (to reach secretary): (202) 395-6194

FROM: ______________________ (Date)
______________________ (Name)
______________________ (Agency)
______________________ (Telephone)

SUBJECT: DEFENSE Draft Bill Historical Item Disposal Authority (DOD 103-054)

The following is the response of our agency to your request for views on the above-captioned subject:

______ Concur

______ No objection

______ No comment

______ See proposed edits on pages ______

______ Other: ______

______ FAX RETURN of ____ pages, attached to this response sheet

DEPARTMENT OF DEFENSE
OFFICE OF GENERAL COUNSEL
WASHINGTON, D.C. 20301-1600

Honorable Thomas S. Foley
Speaker of the House
of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

Enclosed is a draft of legislation "To amend title 10, United States Code, to authorize the military departments to sell excess historical items."

The proposal is part of the Department of Defense Legislative Program for the 103d Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress.

Purpose of the Legislation

The title of the bill states its purpose.

Currently, section 2572(a) of title 10, United States Code, authorizes the Secretaries of the military departments to loan or give historical and other items that are not needed to certain enumerated entities, such as veterans' associations. Section 2572(b) authorizes the Secretaries to exchange those items for similar items held by any individual or entity or in exchange for search, salvage, and restoration services when the exchange will directly benefit the historical collection of the armed forces. Generally, the monetary value of the item or service received by the military department must not be less than the monetary value of the item transferred. The items that may be loaned, given, or exchanged include "books, manuscripts, works of art, historical artifacts, drawings, plans, models, and condemned or obsolete combat materiel."

This proposal would authorize the sales of such items under the same circumstances that would permit an exchange. Limiting transfers under section 2572(b) to exchanges restricts the military departments from maximizing the use of items that are not needed to benefit their historical collections. In some cases where items that are not needed exist, an appropriate exchange cannot be executed. For example, the monetary value of potential items for exchange may not be comparable or the items actually required may not be available through an exchange transaction. Thus, the military departments must pay to retain and store items until suitable items become available.

As defense dollars decline, proper restoration and conservation of historical items in current inventories becomes more difficult. The condition of historic items held by the military departments is deteriorating. The authority to sell historical items that are not needed would have three positive impacts. First, the military departments would be able to use the proceeds to restore and conserve the current inventory of items that are needed. Second, items essential to the history of the armed forces could be obtained. Third, there would be an incentive to dispose of items that are not needed, rather than retain them for a future potential exchange. The overall benefit to the armed forces would be improved property management and a reduction in future storage costs for items that are not needed.

The proposal also clarifies the type of restorative services that may be received in an exchange under section 2572(b).

Cost and Budget Data

If enacted, this proposal will not result in an increase in the budgetary requirements of the Department of Defense.

Enclosure

A BILL

To amend title 10, United States Code, to authorize the military departments to sell excess historical items.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2572 of title 10, United States Code, is amended–

(1) in subsection (a), by striking "lend or give" and inserting in lieu thereof "lend, give, or sell"; and

(2) in subsection (b)(1),

(A) by striking "exchange" and inserting in lieu thereof "exchange or sell"; and

(B) by striking "search, salvage, and restoration" and inserting in lieu thereof "search, salvage, transportation, restoration, or conservation"; and

(3) by adding at the end the following new subsection:

"(e) The proceeds received from sales under this section may be retained by the Secretary concerned for the direct benefit of historical collections of the armed forces.".

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

June 7, 1994

ACTION

MEMORANDUM FOR ANTHONY LAKE

THROUGH: ROBERT G. BELL RGB

FROM: ANNE WITKOWSKY AW

SUBJECT: Presidential Thank You Letters for D-Day Dinner

Per the President's request (Tab II), attached are draft "thank you" letters from the President to the WWII veterans and military historians who attended the May 24th D-Day dinner. The letters have been held until now so they could be sent with a 50th Anniversary of WWII commemorative coin set in lucite, which General Kicklighter's commission has now produced. The encapsulated coin is captioned: "Liberation of Europe Commemorative Dinner with President Bill Clinton, 24 May 1994."

RECOMMENDATION

That you forward the attached letters to the President.

Attachments
Tab I Memorandum for the President
- Tab A Draft Letters
- Tab B Commemorative Coin

Tab II D-Day Dinner with Historians and Veterans

THE WHITE HOUSE

WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE

SUBJECT: Thank You Letters to D-Day Dinner Participants

Purpose

To express your gratitude to the WWII veterans and military historians who attended the May 24th D-Day dinner.

Background

Enclosed with each thank you letter will be a 50th Anniversary of WWII commemorative coin set in lucite with the caption "Liberation of Europe Commemorative Dinner with President Bill Clinton, 24 May 1994." The sample attached at Tab B is for you to retain. This coin will also be hand-delivered to the senior White House staff who were present at the dinner.

RECOMMENDATION

That you sign the attached letters.

Attachments
Tab A Proposed Letters
Tab B Commemorative Coin

cc: Vice President
Chief of Staff

A

THE WHITE HOUSE

WASHINGTON

Dear Professor D'Este:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. I especially appreciated your many contributions to our discussion of the Italian and Normandy campaigns, including your comments regarding the nature of battle at Anzio and the role of the French Resistance in Normandy.

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

Professor Carlo W. D'Este
440 Brassie Way
P.O. Box 471
New Seabury, MA 02649

THE WHITE HOUSE

WASHINGTON

Dear Dr. Pogue:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. As the "dean" of D-Day historians and one who was present that day off Omaha Beach, you brought a special dignity and sense of history to our discussions that evening. I especially appreciated you and your wife making the long trip from Kentucky to join us on this memorable occasion.

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

Dr. Forrest Pogue
1405 B Valley Wood
Murray, KY 42071

THE WHITE HOUSE

WASHINGTON

Dear Professor Keegan:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. I especially appreciated your many contributions to our discussion of the Normandy campaign, including your comments regarding the role of the Canadians and your personal recollections of WWII events in Britain as a ten-year old. Thank you, too, for coming all the way from London to join us.

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

Professor John Keegan
c/o Hutchinson Books Ltd.
Random Century House
20 Vauxfall Bridge Road
London SWIV 2SA, England

THE WHITE HOUSE

WASHINGTON

Dear Professor Fussell:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. I especially appreciated your many contributions to our discussion of the Italian and Normandy campaigns, including your comments regarding General Marshall's contributions to the prowess of our soldiers and the role of the counterintelligence operation in securing the victory.

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

Professor Paul Fussell
2020 Walnut Street
Philadelphia, PA 19103

THE WHITE HOUSE

WASHINGTON

Dear Professor Ambrose:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. I especially appreciated your many contributions to our discussion of the Normandy campaign, including your vivid description of what was at stake that day on Omaha Beach. I am pleased to report that I finished your book, which I found invaluable in preparing me to visit Normandy.

As I said at the close of our evening, the dinner was the experience of a lifetime. I thank you for helping to make it such a memorable occasion and wish you every success with your National D-Day Museum in New Orleans.

Sincerely,

Professor Steven E. Ambrose
The Eisenhower Center
University of New Orleans
Metropolitan College
New Orleans, LA 70148

THE WHITE HOUSE

WASHINGTON

Dear General Nelson:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. I especially appreciated your many contributions to our discussion of the Italian and Normandy campaigns, as well as your able coordination of the historians' interventions. General Sullivan and the U.S. Army can be proud of the service you rendered us all on this memorable occasion.

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

Brigadier General Harold Nelson, USA
Chief of Military History
U.S. Army Center of Military History
1099 14th Street, N.W.
Washington, D.C. 20055-3402

THE WHITE HOUSE

WASHINGTON

Dear Terry:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. I especially appreciated your many contributions to our discussion of the Italian and Normandy campaigns and their relevance to many of the challenges our Nation confronts around the world today. As a veteran of the fighting in Italy, the invasion of southern France and the Battle of the Bulge, you brought a special dignity and sense of history to our conversations. I am so pleased you took the time to come up from North Carolina to join us for this memorable occasion.

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

The Honorable Terry Sanford
Office of the President Emeritus
Chapel Drive, Union West Building, Room 201
Duke University
Durham, NC 27708-0871

THE WHITE HOUSE

WASHINGTON

Dear General Goodpaster:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. I especially appreciated your many contributions to our discussion of the Italian and Normandy campaigns and their relevance to many of the challenges our Nation confronts around the world today. As a veteran of the fighting in Italy and a former SACEUR, you brought a special dignity and sense of history to our discussions on this memorable occasion.

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

General Andrew J. Goodpaster, USA (Ret.)
The Atlantic Council
1616 H Street, N.W.
Washington, D.C. 20006

THE WHITE HOUSE

WASHINGTON

Dear Lloyd:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. I especially appreciated your many contributions to our discussion of the Italian and Normandy campaigns and their relevance to many of the challenges our Nation confronts around the world today. As a veteran of the bombing missions waged from bases in Italy, you brought a special dignity and sense of history to our discussions on this memorable occasion.

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

The Honorable Lloyd M. Bentsen
Secretary of the Treasury
1500 Pennsylvania Avenue, N.W.
Room 3330
Washington, D.C. 20220

THE WHITE HOUSE

WASHINGTON

Dear Sam:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. I especially appreciated your many contributions to our discussion of the Normandy campaign and its relevance to many of the challenges our Nation confronts around the world today. As a veteran of the pre-dawn jump into Normandy on D-Day, you brought a special dignity and sense of history to our conversations. I am also so pleased you enjoyed the beer!

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

The Honorable Sam M. Gibbons
House of Representatives
2204 RHOB
Washington, D.C. 20515

THE WHITE HOUSE

WASHINGTON

Dear Ken:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. I especially appreciated your many contributions to our discussion of the Normandy campaign and its relevance to many of the challenges our Nation confronts around the world today. As a veteran of the Ranger's remarkable climb up the cliffs of Pointe du Hoc, you brought a special dignity and sense of history to our conversations. I am so pleased you were able to join us for this memorable occasion.

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

Mr. Kenneth Bargmann (OOH)
Department of Veterans Affairs
Office of the Secretary
810 Vermont Avenue, N.W.
Washington, D.C. 20420

THE WHITE HOUSE

WASHINGTON

Dear Chris:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. As a veteran of the fighting in the Pacific, you brought a special dignity and sense of history to our conversations. I am so pleased you were able to join us for this memorable occasion.

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

The Honorable Warren D. Christopher
Secretary of State
2201 C Street, N.W.
Washington, D.C. 20520

THE WHITE HOUSE

WASHINGTON

Dear John:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. As one who graduated from West Point as the war reached its climactic stage and witnessed first hand your father's brilliant leadership in this great crusade, you brought a special dignity and sense of history to our conversations. I am so pleased you were able to join us for this memorable occasion.

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

Mr. John S.D. Eisenhower
27318 Morris Road
Trappe, MD 21673

THE WHITE HOUSE

WASHINGTON

Dear General Kicklighter:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. I am so pleased you were able to join us for this memorable occasion. As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

During the Memorial Day ceremony in the East Room I paid tribute to your tireless service in organizing the Defense Department's 50th anniversary activities, and I again thank you for that superb accomplishment.

Sincerely,

LTG Claude M. Kicklighter, USA (Ret.)
50th Anniversary of WWII
ATTN: SACC, Room 3E524, The Pentagon
Secretary of the Army
Washington, D.C. 20310-0101

THE WHITE HOUSE

WASHINGTON

Dear General St. John:

I wanted to send you a memento of our extraordinary World War II commemorative dinner. I especially appreciated your many contributions to our discussion of the Normandy campaign and its relevance to many of the challenges our Nation confronts around the world today. As a veteran of the fighting in Normandy and across Europe, you brought a special dignity and sense of history to our conversations. I am so pleased you were able to join us for this memorable occasion.

As I said at the close of our evening, the dinner was the experience of a lifetime. Thank you for helping to make it such a success.

Sincerely,

Major General Adrian St. John, USA (Ret.)
9110 Belvoir Woods Parkway #118
Fort Belvoir, VA 22060

SAMPLE MEDAL FOR THE PRESIDENT

please staff for
action to Bill/
Helen

urgently

3997

THE PRESIDENT HAS SEEN
5-25-94

THE WHITE HOUSE

WASHINGTON

May 21, 1994

94 MAY 22 P1:44

INFORMATION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE

SUBJECT: D-Day Dinner with Historians and Veterans

We have invited several leading military historians on WWII and several prominent veterans of the WWII campaigns in Italy and Normandy to attend Tuesday evening's dinner. In preparation for your upcoming trip to Europe, this informal dinner will provide an opportunity for you to discuss the historical context in which the Italian and Normandy campaigns took place. It will also help deepen your understanding of the events themselves, not only through the eyes of historians, but through the personal accounts of individuals who were there.

In addition to senior administration officials, the following historians and veterans will attend:

Historians

Brigadier General Harold Nelson -- Chief of U.S. Army Center of Military History. His office is preparing briefings and materials for the Defense Department in preparation for D-Day commemorative events.

Forrest Pogue -- the "dean" of D-Day historians. As a young professor became an official U.S. Army historian for WWII. Retained after the war to write Eisenhower's official biography. Present on a ship 500 yards off of Omaha Beach on D-Day conducting official "oral history" interviews with combatants. Featured prominently as one of the voice-overs in the D-Day documentary which you may view after dinner.

Steven Ambrose -- has just published D-Day June 6, 1944: The Climactic Battle of World War II. Biographer of Nixon. Professor of History at the University of New Orleans and president of the national D-Day museum there.

Carlo D'Este -- author of Decision in Normandy and Fatal Decision: Anzio and the Battle for Rome. Commissioned as an Army officer in 1958, served in Vietnam, and retired as a Lieutenant Colonel in 1978.

Paul Fussell -- retired professor of English, University of Pennsylvania; fields also include history and social commentary. Written extensively on warfare, including on WWII.

cc: Vice President
Chief of Staff

John Keegan -- noted British military historian. Gained fame for his seminal work, The Face of Battle, which examined famous battles from the perspective of the common soldier, rather than the generals or grand strategists. Author of Six Armies in Normandy. Can provide excellent perspective on allied armies' involvement on D-Day.

Veterans

Major General Adrian St. John (USA, Ret.) -- commanded the 15th Cavalry Reconnaissance Squadron (Mechanized), which landed at Utah Beach on D+10 and helped secure the capture of Cherbourg. Led his troops all the way to Berlin through Brittany and Ruhr; veteran of Korean and Vietnam wars; served as JCS Representative to U.S. Delegation to CFE negotiations under then-Ambassador Jim Woolsey. Nomination currently pending for award of President's Citizens Medal for his 50 years of government service. Retired in 1992.

Terry Sanford -- former North Carolina Governor and Senator and President of Duke University. Fought in Italian campaign and was in Rome with Allied forces on D-Day. Participated in the invasion of the south of France and parachuted into the Battle of the Bulge.

General Andrew Goodpaster (USA, Ret.) -- commanded the 48th Combat Engineer Battalion in battles in North Africa and in Italy (including Anzio), where he was wounded on February 2, 1994. Later in his career he joined President Eisenhower's staff as staff secretary. Rose to rank of four stars and served as SACEUR. Still active in European security affairs. Co-Chairman, Atlantic Council.

Congressman Sam Gibbons -- your Personal Representative to D-Day commemorative events. Jumped into Normandy on D-Day with the 101st Airborne Division.

Ken Bargmann -- was first Ranger off his boat at the Normandy landing and member of one of the three Ranger Companies which scaled the cliffs at Pointe Du Hoc. Fought for 7 hours before he was captured. Serving as consultant to Veterans Affairs for D-Day commemorative events.

Secretary Lloyd Bentsen -- flew B-24's for the 449th Bomber Group, mostly over Italy (where he was stationed), including interdicting supply lines at Anzio; became promoted quickly to rank of Major and became a Squadron Leader at about the age of 23.

Agenda and Format

We have planned for the evening to begin in the family theater with a scenesetter briefing (10-15 minutes) by General Nelson. He will review the strategic situation the United States and its allies confronted on June 6, 1944, highlight the military operations in Italy prior to D-Day and summarize the Normandy campaign. We suggest that after his briefing, you call on each of the other five historians to offer some brief perspectives, beginning with Dr. Pogue. Issues you may want the discussion to explore include:

-- How did the allies manage to achieve tactical surprise at Normandy; how were leaks controlled; and what constraints were imposed on the press?

-- How much of the detailed planning was President Roosevelt privy to or responsible for? How much of the plan for the campaign was developed in Washington as opposed to General Eisenhower's headquarters? What did President Roosevelt _do_ on D-Day?

-- Could Germany have _defeated_ the landings? How?

-- In retrospect, was Normandy the right place to land? Would the war have been shortened or lengthened if the landings had occurred elsewhere?

-- What did the allies do _right_ in Normandy? What did they do _wrong_? What lessons did they learn that were applied successfully later in the war?

-- To what extent did the campaign in Normandy benefit from lessons learned in the operations in Italy, including the landings at Sicily and Anzio?

-- How did the operations in Italy contribute most to the eventual outcome of the war?

Following these discussions, the group will move to the Family Dining Room. Over dinner there will be an opportunity to discuss some of the key themes which the historians have articulated and to call on each of the veterans to relate his experience either in the Italian campaign or on the Normandy beaches.

After dinner, if time permits, you may invite the group to the Family Theater for a preview of the critically acclaimed 50-minute video "D-Day", written and directed by Academy Award winner Charles Guggenheim. This documentary is narrated by David McCullough (who narrated Ken Burns' _The Civil War_) and will air on PBS May 25th.

Withdrawal/Redaction Marker
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001a. memo	For Samuel Berger from Steven Andreasen. Subject: Memorandum to the President. Record ID: 9420708. (1 page)	06/07/1994	P1/b(1)

COLLECTION:
Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 265

FOLDER TITLE:
Chron File - June 1994 #1 [5]

2016-0152-F
vz4580

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001b. memo	For the President from Samuel Berger. Subject: [Imminent Test] [with draft statement for the press secretary] Record ID: 9420708. (3 pages)	06/07/1994	P1/b(1)

COLLECTION:
Clinton Presidential Records
National Security Council
Defense Policy and Arms Control (Robert Bell)
OA/Box Number: 265

FOLDER TITLE:
Chron File - June 1994 #1 [5]

2016-0152-F
vz4580

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